

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Dickson Square Properties)
 Dist. 5, Map 110, Control Map 110,) Dickson County
 Parcels 54.02 & 54.04)
 Commercial Property)
 Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued in the aggregate at \$3,757,900 as follows:

Parcel 54.02

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$222,000	\$181,800	\$403,800	\$161,520

Parcel 54.04

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,226,300	\$2,127,800	\$3,354,100	\$1,341,640

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a jurisdictional hearing and prehearing conference in this matter on March 3, 2008 in Charlotte, Tennessee. The taxpayer was represented by registered agent Betty Sellers. The assessor of property, Gail Wren, represented herself and was assisted by Joe Griffin, RES, the regional appraisal supervisor for the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a strip shopping center located at 418 Highway 46 South in Dickson, Tennessee.

The parties stipulated subject property should be valued at \$3,050,000 in the event it is determined the State Board of Equalization has jurisdiction in this matter. The jurisdictional issue arises from the fact that the taxpayer did not appeal the disputed appraisal to the Dickson County Board of Equalization. Instead, the taxpayer filed a direct appeal with the State Board of Equalization on October 5, 2007.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of the 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.

Associated Pipeline Contractors, Inc. (Williamson County, Tax Year 1992). See also *John Orovets* (Assessment Appeals Commission, Cheatham County, Tax Year 1991). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond its control prevented it from appealing to the Dickson County Board of Equalization.

The administrative judge finds Ms. Sellers testified that she called the assessor's office in May of 2007 to schedule an appointment with the Dickson County Board of Equalization. Ms. Sellers stated that the person she spoke with told her to meet with Derrick Hammond, a commercial appraiser with the Division of Property Assessments.¹

Ms. Sellers contacted Mr. Hammond and traveled to Nashville on June 8, 2007 to meet with him. Ms. Sellers testified that she gave Mr. Hammond the pertinent income and expense data for his review. According to Ms. Sellers, Mr. Hammond told her he was "extremely busy" and unsure when he would be able to get back to her.

Ms. Sellers testified that she heard nothing further from Mr. Hammond, but did not attach any particular significance to this given his busy work schedule. Unbeknownst to Ms. Sellers, Mr. Hammond left the Division in August of 2007 and went to work for the Davidson County Assessor of Property. Ms. Sellers renewed her inquiries after the client received its tax bill in October of 2007.

The administrative judge finds the Assessment Appeals Commission has ruled that the State Board of Equalization has "broad authority to find reasonable cause for not first appealing to the county board." *Mary M. Headrick and Detlef R. Matt*, Order Recognizing Jurisdiction and Remanding the Appeal for a Hearing at 5 (Knox Co., Tax Year 1993, November 5, 1996). Moreover, "the Commission has shown great sensitivity in situations where a taxpayer has been misled, whether intentionally or unintentionally, by government

¹ Ms. Sellers did not recall the name of the person she spoke with.

officials.” *Memphis Mall Holdings, LLC*, Final Decision and Order at 3 (Shelby Co., Tax Year 2003, December 22, 2004).

Based upon the foregoing, the administrative judge finds that the taxpayer established reasonable cause for not appealing to the Dickson County Board of Equalization. Accordingly, the administrative judge finds that the State Board of Equalization has jurisdiction in this matter and subject property should be valued as stipulated by the parties.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

Parcel 54.02

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$222,000	\$113,500	\$335,500	\$134,000

Parcel 54.04

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,226,300	\$1,488,200	\$2,714,500	\$1,085,800

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

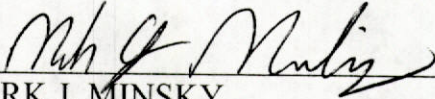
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 18th day of March, 2008.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Betty A. Sellers
Gail Wren, Assessor of Property